

[Counsel Information Listed On Signature Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

No. 3:14-CV-03348-EMC

**UPDATED JOINT STATUS REPORT,
STIPULATED REQUEST TO CONTINUE
CASE MANAGEMENT CONFERENCE,
AND [PROPOSED] ORDER**

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

FUJITSU NETWORK
COMMUNICATIONS, INC.,

Defendant.

No. 3:14-CV-03349-EMC
(related case)

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

TELLABS OPERATIONS, INC. AND
CORIANT (USA) INC.,

Defendant.

No. 3:14-CV-03350-EMC
(related case)

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

CIENA CORPORATION,

Defendant.

No. 3:14-CV-03351-EMC
(related case)

1 Lead counsel for Plaintiff Capella Photonics, Inc. (“Capella” or “Plaintiff”), and
 2 Defendants Cisco Systems, Inc. (“Cisco”), Ciena Corporation (“Ciena”), Fujitsu Network
 3 Communications, Inc. (“FNC”), Coriant Operations, Inc. (formerly Tellabs Operations, Inc.),
 4 and Coriant (USA) Inc. (Coriant entities collectively “Coriant”) (collectively “Defendants”)
 5 (together with Plaintiff, “the parties”) submit this Updated Joint Status Report for the above-
 6 captioned cases (collectively, the “Related Actions”) pursuant to the Court’s March 31, 2016
 7 Order (Dkt. No. 176) and the August 29, 2016 Clerk’s Notice (Dkt. No. 177).

8 Pursuant to the Court’s March 6, 2015 Order, the Related Actions are “stayed in their
 9 entirety pending final exhaustion of the relevant review proceedings, including any appeals.”
 10 (Dkt. No. 172 at 6). The parties hereby apprise the Court of the status of the inter partes
 11 review (“IPR”) proceedings initiated by Cisco and additional inter partes review proceedings
 12 concerning the Patents in Suit (U.S. Patent Nos. RE42,368 (“’368 Patent”) and RE42,678
 13 (“’678 Patent”)).

14 **I. STATUS OF THE IPR PROCEEDINGS**

15 On July 15, 2014, Cisco filed a petition at the United States Patent & Trademark
 16 Office (Patent Office) for inter partes review (IPR2014-01166) on the ’368 patent. Cisco filed
 17 a petition (IPR2014-01276) on the ’678 patent less than a month later. The two IPR petitions
 18 addressed every asserted claim against each of the Defendants. The Patent Office joined
 19 Ciena, FNC, and Coriant in these two IPR proceedings. The Patent Office issued Final
 20 Written Decisions on January 28, 2016 in IPR2014-01166 and on February 17, 2016 in
 21 IPR2014-01276. The Patent Office found unpatentable every claim asserted in this litigation.
 22 Capella filed requests for rehearing in both IPRs. The Patent Office denied the requests for
 23 rehearing. Capella filed a notice of appeal to the Court of Appeals for the Federal Circuit.
 24 The Federal Circuit docketed and consolidated the appeals but no briefing has yet been
 25 submitted. Capella’s opening brief is due November 7, 2016.

26 On August 24, 2015, the Patent Office instituted FNC’s inter partes review (IPR2015-
 27 00726) involving the ’368 patent and FNC’s inter partes review (IPR2015-00727) involving
 28 the ’678 patent. The Patent Office joined Ciena and Coriant in these two IPR proceedings.

1 The parties are waiting for the Patent Office to issue Final Written Decisions in these IPRs,
2 which are fully briefed and argued.

3 On August 25, 2015, the Patent Office instituted inter partes review (IPR2015-00731)
4 for the '368 patent and inter partes review (IPR2015-00739) for the '678 patent based on
5 petitions filed by non-party JDS Uniphase Corporation (JDSU) (now called "Lumentum").
6 The Patent Office joined Cisco, Ciena, FNC, and Coriant in these two IPR proceedings. The
7 parties are waiting for the Patent Office to issue Final Written Decisions in these IPRs, which
8 are fully briefed and argued.

9 **II. STIPULATED REQUEST TO CONTINUE CASE MANAGEMENT**
10 **CONFERENCE**

11 Given the status of the pending IPR proceedings and appeals, the Parties propose and
12 stipulate to continuing the Case Management Conference, currently scheduled for September
13 22, 2016 (Dkt. No. 177), until March 20, 2017, or such other date as the Court may wish. The
14 Parties further propose and stipulate to filing an updated joint status report on March 13, 2017.
15 A [Proposed] Order continuing the Case Management Conference in light of the foregoing
16 stipulation is attached hereto.

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2 Dated: September 15, 2016

MANATT, PHELPS, & PHILLIPS, LLP

3 By: /s/ Robert D. Becker w/ permission
4 Robert D. Becker
5 Attorneys for Plaintiff
6 *Capella Photonics, Inc.*

7
8 Dated: September 15, 2016

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1 Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Sarah J. Guske, attest
2 that concurrence in the filing of this document has been obtained from each of the other
3 signatories. I declare under penalty of perjury under the laws of the United States of America
4 that the foregoing is true and correct.

5 Executed September 15, 2016.

6 /s/ Sarah J. Guske
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1 Pursuant to the Parties' stipulated request to continue the September 22, 2016 Case
2 Management Conference, and for good cause, it is so Ordered.

- 3 1. The Case Management Conference is continued until March 20, 2017.
4 2. The parties shall submit an updated joint status report on March 13, 2017.

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6 Dated: _____

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9 _____
10 HON. EDWARD CHEN
11 UNITED STATES DISTRICT JUDGE
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